

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MATTHEW DAVILLE,

Plaintiff,

v.

**Case No. 2:24-cv-2354
Judge Edmund A. Sargus, Jr.
Magistrate Judge Elizabeth P. Deavers**

RIXEY BROUSSARD, *et al.*,

Defendants.

REPORT AND RECOMMENDATION

Defendant TransCanada USA Services, Inc. (“TransCanada”) removed this action from the Athens County Court of Common Pleas on May 10, 2024. (ECF No. 1.) On August 16, 2024, the Court directed Plaintiff to file a written status report by August 27, 2024, advising the Court as to the status of service of process on Defendant Rixey Broussard. (ECF No. 9.) On August 21, 2024, Plaintiff filed his status report and the Court construed that filing as requesting an extension of time to complete service on this Defendant. (ECF Nos. 10, 11.) Accordingly, on August 23, 2024, the Court granted Plaintiff an extension of time until September 23, 2024, to complete service. (ECF No. 11.) Since that initial extension, the Court has granted two additional extensions of time to complete service, the last of which ran November 15, 2024. (*See* ECF Nos. 14, 15, 17, 18.) To date, the record does not reflect the completion of service. It is therefore **RECOMMENDED** that Plaintiff’s claims against Defendant Rixey Broussard be **DISMISSED WITHOUT PREJUDICE** pursuant to Rule 4(m) for failure to timely effect service of process. It is **FURTHER RECOMMENDED** that TransCanada’s motion to dismiss all claims against this Defendant (ECF No. 16) be **DENIED** as moot.

PROCEDURE ON OBJECTIONS

If any party seeks review by the District Judge of this Report and Recommendation, that party may, within fourteen (14) days, file and serve on all parties objections to the Report and Recommendation, specifically designating this Report and Recommendation, and the part in question, as well as the basis for objection. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Response to objections must be filed within fourteen (14) days after being served with a copy. Fed. R. Civ. P. 72(b).

The parties are specifically advised that the failure to object to the Report and Recommendation will result in a forfeiture of the right to *de novo* review by the District Judge and forfeiture of the right to appeal the judgment of the District Court. Even when timely objections are filed, appellate review of issues not raised in those objections is forfeited. *Robert v. Tesson*, 507 F.3d 981, 994 (6th Cir. 2007) (“[A] general objection to a magistrate judge’s report, which fails to specify the issues of contention, does not suffice to preserve an issue for appeal . . .”)(citation omitted)).#

Date: December 17, 2024

/s/ Elizabeth A. Preston Deavers
ELIZABETH A. PRESTON DEAVERS
UNITED STATES MAGISTRATE JUDGE